

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LINDSAY HOWE
330 ISLAND DRIVE
MADISON, WI 53705

Plaintiffs,

vs.

Case No. 12CV902

SEARS, ROEBUCK AND CO.
3333 BEVERLY ROAD
HOFFMAN ESTATES, IL 60179

Defendants.

COMPLAINT

The plaintiff by her attorneys Arellano & Phebus, S.C. by Victor M. Arellano, in her complaint against defendant states as follows:

I.
NATURE OF THE CASE

1. Lindsay Howe (hereinafter "plaintiff") seeks redress pursuant to 42 U.S.C. § 1981 for the wrongful termination of her employment with defendant Sears, Roebuck and Co. (hereinafter "Sears" or "defendant"). Specifically, plaintiff asserts that she was terminated after she conducted an investigation related to complaints of racial harassment and racial threats of violence against a full time Mexican/American employee. After plaintiff reported such racial harassment to management, she was told to "stay out of it" and subsequently, plaintiff was terminated under false pretenses.

Plaintiff seeks compensatory damages, full reinstatement with all benefits, emotional damages, court costs, and attorney's fees incurred in seeking redress pursuant to 42 U.S.C. § 1981.

II.
JURISDICTION AND VENUE

2. The United States District Court for the Western District of Wisconsin has subject matter jurisdiction over the instant dispute, because the instant claims involve a federal question pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 1981.

3. Venue lies within the U.S. District Court for the Western District of Wisconsin pursuant to 28 U.S.C. § 1331(b) because all alleged acts/omissions which form the basis of the instant claims occurred in the instant district.

III.
PARTIES

4. Plaintiff, Lindsay Howe, resides at 330 Island Drive, Madison, Wisconsin 53705. At all times material hereto, plaintiff was employed by Sears from May of 2004 to October 28, 2010.

5. Defendant, Sears, Roebuck and Co., is a foreign business corporation with its corporate headquarters located at 3333 Beverly Road, Hoffman Estates, Illinois 60179. The registered agent for Sears, Roebuck and Co., is C.T. Corporation System, 8040 Excelsior Drive, Suite 200, Madison, Wisconsin 53717.

IV.
FACTUAL ALLEGATIONS

6. Paragraphs 1 through 5 above are re-alleged and incorporated herein as if set forth in full.

7. Plaintiff is an adult white female who is a citizen of the United States who commenced her employment with Sears Auto Center in the Janesville, Wisconsin location in May of 2004. In March of 2007, plaintiff was hired as the assistant manager for the Sears Auto Center on 522 South Gammon Road, Madison, Wisconsin under the direct supervision of Mr. Jerry Schultz, the store manager.

8. As an assistant manager of the Sears Auto Center, plaintiff was required to implement and investigate the company's anti-discrimination policies and practices. Plaintiff was also responsible for reporting any act/complaint of discrimination to management and/or to the company's EthicsAssist Line at 1-800-8ASSIST or Associate Services at 1-888-88sears.

9. On or about the early part of 2010, plaintiff became aware of certain discrimination complaints that were raised by a Mexican/American employee who worked as a technician within Sears' auto mechanic shop department. Specifically, plaintiff learned that the Mexican/American employee was the subject of racially motivated verbal and physical threats by a white employee.

10. Upon further investigation of the discrimination complaint registered by a Mexican/American employee, the plaintiff reported to Mr. Jerry Schultz that a white employee had/was engaging in the following racially charged conduct:

- a. Calling a Mexican/American employee a "fucking Mexican spic" when referring to said employee during working hours;
- b. Telling a Mexican/American employee "you need to go back to Mexico. You don't belong here...you are a dirty spic..." when referring to said employee during working hours; and

c. Telling a Mexican/American employee during working hours that "he's a Mexican. He needs to go back to Mexico where he belongs."

11. Upon learning of the racial discriminatory treatment the Mexican/American employee was receiving at the hands of a white employee, plaintiff notified her supervisor, Jerry Schultz, and the human resources representative.

12. Upon information and belief, defendant's representatives failed to address any of the concerns raised by plaintiff. In fact, plaintiff was told to "stay out of it" by her immediate supervisor, Jerry Schultz.

13. Upon information and belief, none of the complaints raised by plaintiff with management were acted upon. Instead, the plaintiff was terminated on October 28, 2012, at the heels of her protected conduct without any explanation.

14. Plaintiff alleges that the actions taken against plaintiff constitute adverse actions of retaliation for opposing discriminatory practices in the work place and because she participated in an investigation of a racially motivated harassment of a Mexican/American employee.

WHEREFORE, plaintiff seeks injunctive and compensatory relief as follows:

- a. Compensatory damages for the psychological and emotional injury/distress, as well as for the physical pain and suffering defendants conduct caused the plaintiff;
- b. Punitive damages;
- c. For reasonable attorney's fees and costs incurred in seeking relief; and
- d. Any other relief the court may deem appropriate.

PLAINTIFF DEMANDS A JURY OF TWELVE.

Dated this 7th day of December, 2012.

ARELLANO & PHEBUS, S.C.
Attorneys for Plaintiff

s/ Victor M. Arellano

Victor M. Arellano
State Bar No: 1011684
varellano@aplawoffice.com
1468 North High Point Road, Suite 202
Middleton, WI 53562
Telephone: 608.827.7680